



8. Did you appeal from the judgment of conviction? Yes ☒ No ☐
9. If you did appeal, answer the following:
- (a) Name of court: US Court of Appeals for the Third Circuit
- (b) Docket or case number (if you know): 04-4703
- (c) Result: Dismissed as untimely filed
- (d) Date of result (if you know): July 21, 2005
- (e) Citation to the case (if you know): \_\_\_\_\_
- (f) Grounds raised: SEE ADDENDUM ATTACHED HERETO
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☐
- If "Yes," answer the following:
- (1) Docket or case number (if you know): \_\_\_\_\_
- (2) Result: \_\_\_\_\_
- \_\_\_\_\_  
\_\_\_\_\_
- (3) Date of result (if you know): \_\_\_\_\_
- (4) Citation to the case (if you know): \_\_\_\_\_
- (5) Grounds raised: \_\_\_\_\_
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?
- Yes ☐ No ☒
11. If your answer to Question 10 was "Yes," give the following information:
- (a) (1) Name of court: \_\_\_\_\_
- (2) Docket or case number (if you know): \_\_\_\_\_
- (3) Date of filing (if you know): \_\_\_\_\_
- (4) Nature of the proceeding: \_\_\_\_\_
- (5) Grounds raised: \_\_\_\_\_

ADDENDUM TO 28 U.S.C. 2255 MOTION  
OF FREDDIE SINKLER, JR.

9(F):

There were two appeals taken to the Third Circuit in this case.

The first was taken in a timely fashion after sentencing, and was docketed at 03-1912. That appeal has no bearing on this matter. That appeal challenged the denial of suppression by the trial judge. The Circuit remanded the matter back to the District Court after determining that the record was insufficient for appellate review.

The District Court then conducted a more in-depth hearing and again denied the suppression request. In so doing, however, the Court raised, *sue sponte*, the doctrine of "inevitable discover," and used that as a basis for denying the motion to suppress. This doctrine was not presented by the government.

Trial counsel then attempted to appeal that ruling to the Third Circuit, but it was dismissed as untimely filed. This fatal appeal is the one currently at issue and was docketed in the Circuit Court at 04-4703.

The issue of ineffectiveness of counsel, then, has never been raised because it happened concurrently with the dismissal of the appeal. The issue of the *sue sponte* raising of "inevitable discovery" has also never been raised, because it was the intended issue on the dismissed appeal. The same is true with regard to another issue appellate counsel would like to raise, and that is the propriety of the trial judge raising, *sue sponte*, defenses or doctrines that are not presented by the government. In doing so, it is argued, she compromised her independence and became an advocate for the government in this prosecution.

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(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

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12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**Ineffective assistance of counsel. This cost**  
**GROUND ONE:**  
**me my right of direct appeal**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

**My attorney filed my appeal too late and therefore it was**  
**dismissed. THE ORDER APPEALED FROM WAS ENTERED ON November**  
**November 23, 2004, and he did not file the Notice of Appeal until**  
**December 22, 2004, more than the 10 days allowed by law to file.**  
**Because of this I was denied my right to seek review of the**  
**following issues: 1. Did the trial court err in not suppressing**  
**the physical evidence of the drugs found near me; 2. Did the**  
**trial court err in raising, sue sponte, the doctrine of**  
**"inevitable discovery" when the government never raised it.**

(b) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

**The issue could not be raised until it happened**  
**which was at the moment the appeal was dismissed.**

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

**GROUND TWO:** The Court erred when it refused to grant my  
supression motion.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The primary physical evidence against me was drugs in a bag  
found on the ground a short distance away from me after an  
auto accidnet. I asked that they be supressed. The government  
responded with several theories as to why they should not be  
supressed. The Judge rejected all of their arguments then  
presented one of her own, sue sponte, to support denying my  
motion. This was a mistake and the motion should have been  
granted.

(b) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

The case was dismissed before I could raise it.

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

**GROUND THREE: The judge acted improperly when she sue sponte raised an issue the government did not; this compromised her**

**(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):**  
**My suppression motion was denied NOT because of any argument the government raised, but rather because of one the trial judge**

raised sue sponte. At the point that the judge began raising defenses to my motion that the government had not, she compromised her impartiality and effectively became a partner with the government in the prosecution of my case.

**(b) Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: I wanted to but the appeal was dismissed before I could.

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_



Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

**GROUND FOUR:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

**(b) Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_

Neither the issue regarding ineffectiveness of counsel nor that challenging the impartiality of the trial judge has been previously presented in any court. The latter was to be one of the issues on appeal which never got to be presented because of the ineffectiveness, which therefore never had a chance to be presented.

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised: \_\_\_\_\_

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: None held

(b) At arraignment and plea: Sanford Krevsky, Esq. 1101 N. Front Street,  
Harrisburg PA 17102

(c) At trial: There was no trial

(d) At sentencing: Mr. Krevsky

(e) On appeal: Mr. Krevsky

(f) In any post-conviction proceeding: There have been none

(g) On appeal from any ruling against you in a post-conviction proceeding: Mr. Krevsky

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: \_\_\_\_\_

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

I was sentenced on February 19, 2003, but I am not limited  
by the one-year period of time to file this because of the  
extensive history of this case, and particularly since there  
have been two appeals and proceedings in the trial court since  
I WAS SENTENCED. I refer to the Addendum presented herewith  
in response to Question 9 for further clarification.

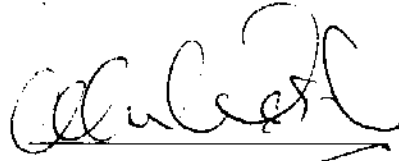
\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: find Mr. Krevsky  
to have been ineffective and give me the chance to have  
my issues heard by the appeals courts

or any other relief to which movant may be entitled.



Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion Under 28 U.S.C. § 2255 was placed in the prison mailing system on \_\_\_\_\_  
\_\_\_\_\_. (month, date, year).

Executed (signed) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion. I, Allen C. Welch, am an attorney and a member of the  
bar of this Court. I am representing Mr. Sinkler in this matter  
and sign on his behalf because of the severe difficulty I  
have meeting with him in Virginia to explain the technicalities  
of this petition and the fact that he is not learned in the law  
and therefore unlikely to fully understand it in any event.

Allen C. Welch  
1101 N. Front St.  
Harrisburg PA 17102  
(717)-350-1002